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## Mendel Biotechnology, Inc.

To: U.S. PATENT AND TRADEMARK OFFICE  
ATTN: Examiner David H. Kruse  
Group Art Unit 1638

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From: Jeffrey M. Libby, Ph.D.,

Date: August 8, 2003

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Kathleen K. Muto  
Kathleen K. Muto

RE: APPLICATION NO.: 09/533,029

DOCKET NO.: MBI-0010

FILED: March 22, 2000

TITLE: TRANSGENIC PLANTS COMPRISING POLYNUCLEOTIDES ENCODING  
TRANSCRIPTION FACTORS THAT CONFER DISEASE TOLERANCE

#### Enclosures:

- 1) Transmittal Form (1 pg);
- 2) Fee Transmittal Form (1 pg.); and
- 3) Response to Advisory Action and Amendment (5 pgs.).

Respectfully,

Jeffrey M. Libby

Jeffrey M. Libby, Ph.D. (Reg. No. 48,251)

PTO/SB/21 (03-03)


Approved for use through 04/30/2003, OMB 0651-0031  
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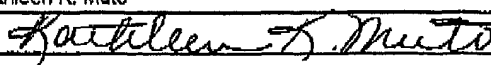
<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/533,029	
	Filing Date	3/22/2000	
	First Named Inventor	HEARD, Jacqueline E.	
	Art Unit	1638	
	Examiner Name	David H. Kruse	
Total Number of Pages in This Submission	7	Attorney Docket Number	MBI-0010 CPA

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input checked="" type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to a Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual	Jeffrey M. Libby, Ph.D., Reg. No. 48,261 Mendel Biotechnology, Inc. 21375 Cabot Blvd., Hayward, CA 94545
Signature	
Date	August 8, 2003

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: 8-8-2003		
Typed or printed	Kathleen K. Muto	
Signature		Date 8-8-03

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

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# FEE TRANSMITTAL for FY 2003

Effective 01/01/2003, Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)-0-

## Complete if Known

Application Number	09/533,029
Filing Date	3/22/2000
First Named Inventor	HEARD, Jacqueline E.
Examiner Name	David H. Kruse
Art Unit	1638
Attorney Docket No.	MSI-0010 CPA

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

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Mendel Biotechnology, Inc

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☐ Charge fee(s) indicated below ☐ Credit any overpayments  
☐ Charge any additional fee(s) during the pendency of this application  
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## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 750	2001 375	Utility filing fee	
1002 330	2002 165	Design filing fee	
1003 520	2003 260	Plant filing fee	
1004 750	2004 375	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
SUBTOTAL (1)			(\$) 0.00

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent	-20** =	X	
Multiple Dependent	-3** =	X	

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1202 18	2202 9	Claims in excess of 20	
1201 84	2201 42	Independent claims in excess of 3	
1203 280	2203 140	Multiple dependent claim, if not paid	
1204 84	2204 42	** Reissue independent claims over original patent	
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent	
SUBTOTAL (2)			(\$) 0.00

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 410	2252 205	Extension for reply within second month	
1253 930	2253 465	Extension for reply within third month	
1254 1,450	2254 725	Extension for reply within fourth month	
1255 1,970	2255 985	Extension for reply within fifth month	
1401 320	2401 160	Notice of Appeal	
1402 320	2402 160	Filing a brief in support of an appeal	
1403 260	2403 140	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,300	2453 650	Petition to revive - unintentional	
1501 1,300	2501 650	Utility issue fee (or reissue)	
1502 470	2502 235	Design issue fee	
1503 630	2503 315	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 750	2809 375	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 750	2810 375	For each additional invention to be examined (37 CFR 1.129(b))	
1801 750	2801 375	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 0

## SUBMITTED BY

Name (Print/Type)	Jeffrey M. Libby, Ph.D.	Registration No. (Attorney/Agent)	48,251	Telephone	510-259-6138
Signature		Date	Aug 8, 2003		

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Patent Application

Atty Docket No. MBI-0010

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of Jacqueline HEARD *et al.*

Serial No.: 09/533,029

Filed: March 22, 2000

Title: TRANSGENIC PLANTS COMPRISING  
POLYNUCLEOTIDES ENCODING TRANSCRIPTION  
FACTORS THAT CONFER DISEASE TOLERANCE

) Examiner: David H. Kruse

) Art Unit: 1638

) **RESPONSE TO ADVISORY ACTION**

\_\_\_\_\_  
Commissioner for Patents  
Mail Stop AF  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:


This response regarding the above-referenced application is filed in response to the Advisory Action mailed July 21, 2003, and supplemental to the Response to Final Rejection mailed January 8, 2003, for the above-identified patent application, and is submitted before Monday, August 18, 2003, the two month anniversary of receipt of the Notice of Appeal at the USPTO falling on Saturday, August 16, 2003. Please consider and make of record the following amendments and remarks. Entry of these amendments is respectfully requested.

**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) 872 - 9307

on August 8, 2003.

Printed Name: Kathleen Muto

  
(Signature)